

its various parliamentary stages, up to and including the presentation of the resolution of ratification; that any statements be printed in the CONGRESSIONAL RECORD as if read; and that the Senate proceed to a vote on the resolution of ratification; and further, that when the resolution of ratification is voted on, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I support the Treaty on Mutual Legal Assistance with Germany, a close and trusted partner with the United States on law enforcement matters.

I would like to address one issue that arose during the review of the treaty. Article 12(1) of the treaty provides that "Each Party may at the request of the other Party, within its possibilities and under the conditions prescribed by its domestic law . . . take the necessary steps for the surveillance of telecommunications."

After the revelation last December of the program of warrantless surveillance by the National Security Agency, NSA, the question arose whether the treaty would provide another purported legal authority for the NSA program. My view is that it does not. But the President's lawyers have proffered highly dubious theories for the program, and the Senate should not make assumptions about what the executive branch thinks about a treaty, because ultimately it is the President, not the Senate, who is charged with "faithfully executing" it. So I asked the executive branch its legal view about whether the treaty provides any additional legal authority for electronic surveillance—whether for the NSA program or any other program.

On April 6, 2006, I wrote the Attorney General of the United States to ask him to confirm that the treaty does not authorize warrantless surveillance. On July 3, after nearly 3 months of deliberation, the Department of Justice responded to my letter. Why it took so long to answer this simple question is unclear. But the response itself is clear: the Justice Department letter concludes that the treaty with Germany would "in no way expand current authority under U.S. law to conduct electronic surveillance."

I welcome the Justice Department's response. While I may disagree with the Department about the scope of the current authority under U.S. law to conduct electronic surveillance, I agree with the Department's interpretation that Article 12(1) does not expand that authority.

I urge all Senators to support this treaty.

I ask unanimous consent that both letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
COMMITTEE ON FOREIGN RELATIONS,  
Washington, DC, April 6, 2006.

Hon. ALBERTO R. GONZALES,  
Attorney General of the United States,  
Washington, DC.

DEAR JUDGE GONZALES: Pending before the Senate is a Treaty on Mutual Legal Assistance in Criminal Matters with Germany (Treaty Doc. 108-27).

Article 12(1) of the Treaty provides that each party may request that the other party, "under the conditions prescribed by its domestic law, take the necessary steps for the surveillance of telecommunications."

I write to request that you confirm that the Treaty does not authorize warrantless surveillance, including any surveillance authorized by the program of surveillance on which you testified before the Committee on the Judiciary on February 6, 2006.

Sincerely,

JOSEPH R. BIDEN, Jr.,  
Ranking Minority Member.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington DC, July 3, 2006.

Hon. JOSEPH R. BIDEN, Jr.,  
Ranking Minority Member, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: This responds to your letter, dated April 6, 2006, to the Attorney General inquiring whether Article 12(1) of the Treaty on Mutual Legal Assistance in Criminal Matters with Germany would authorize warrantless surveillance, including under the Terrorist Surveillance Program described by the President.

By its terms, Article 12 would provide that "[e]ach Party may at the request of the other Party, within its possibilities and under the conditions of its domestic law [ (1) ] take the necessary steps for the surveillance of telecommunications." (Emphasis added.). Accordingly, the Treaty would not enlarge existing surveillance authorities.

The Terrorist Surveillance Program is a narrowly focused early warning system, targeting for interception only those international communications for which there is probable cause to believe that at least one of the parties to the communication is a member or agent of al Qaeda or an affiliated terrorist organization. It is a critical intelligence tool for protecting the United States from another catastrophic al Qaeda attack in the midst of an armed conflict. It is not a means of collecting information for foreign criminal investigations.

In sum, the MLAT with Germany would in no way expand current authority under U.S. law to conduct electronic surveillance. We hope this information is helpful. Please do not hesitate to contact this office if we may be of assistance with future matters.

Sincerely,

WILLIAM E. MOSCHELLA,  
Assistant Attorney General.

Mr. FRIST. Mr. President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER (Mr. ALLEN). A division is requested. Senators in favor of the resolution of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification reads as follows:

*Resolved (two-thirds of the Senators present concurring therein),*

The Senate advised and consents to the ratification of the Treaty between the United States of America and the Federal Republic of Germany on Mutual Legal Assistance in Criminal Matters, signed at Washington on October 14, 2003, and a related exchange of notes (Treaty Doc. 108-27).

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

#### ORDERS FOR FRIDAY, JULY 28, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Friday, July 28. I further ask unanimous consent that following the prayer and pledge, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. FRIST. Mr. President, today the Senate continued consideration of S. 3711, the gulf coast Energy bill. This morning we filed cloture on the bill, and that cloture vote will occur at 5:30 p.m. on Monday. I encourage Senators to come to the floor on Friday to speak on the Energy bill.

I notified all Senators actually about a week ago that we would be voting for sure next Monday. Although we are doing our best to accommodate Senators, it is a very important vote, and we will be having it at 5:30 p.m. on Monday. I ask Senators to adjust their schedules so they can be here.

#### ADAM WALSH BILL

Mr. FRIST. Mr. President, I opened my remarks tonight to say there are a lot of issues being considered. Let me in closing mention a great event we had today for a bill that will get a fair amount of attention—but not the attention it deserves—in affecting people's lives in a very direct way. It is called the Adam Walsh bill, named for a little boy, 6 years of age, who died 25 years ago today.

The bill addresses an issue that has been highlighted a lot, most recently on television, that has to do with sexual predators which had been facilitated a lot by the Internet. This bill establishes two registries. One is for sexual predators. Right now there are about 500,000 we know of in this country; 100,000 we don't know where they are. It establishes a registry across the country, a national registry.

In addition, it will develop a child abuse registry which builds on the recommendations and sponsorship initially of a wonderful nonprofit group